

**PROFESSIONAL/PERSONAL SERVICES CONTRACT**

This Contract, entered into by and between the State of Indiana (the "State") and \_\_\_\_\_ (the "County"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

**1. Duties of the State**

The State shall provide the following services as elected by the County in Table 1, Paragraph 2, relative to this Contract:

- Project management, quality assurance and quality control, acquisition and processing of aerial photography to provide the county with:
  - 6 inch resolution color aerial photography,
  - 5 foot elevation contours, and or
  - 1-meter resolution color infrared photography

**2. Consideration**

The State will be paid at the rate shown below in Table 1 and in accordance with the payment schedule contained in Clause 34 of this Contract for performing the duties set forth above.

**Table 1.**

Check the product(s) elected below:	Remuneration not to exceed (for those products elected by the County, the County must fill in maximum pricing sent by the State November 1, 2004):	Product (including Project management, quality assurance and quality control, acquisition and processing)
		6 inch resolution color aerial photography
		5 foot elevation contours
		1-meter resolution color infrared photography
<b>Total Remuneration:</b>		

Total remuneration under this Contract shall not exceed \_\_\_\_\_.

### **3. Term**

This Contract shall be effective for a period of two years. It shall commence on January 1, 2005 and shall remain in effect through December 1, 2006,

### **4. Access to Records**

Deleted

### **5. Assignment; Successors**

Deleted

### **6. Audits**

Deleted

### **7. Authority to Bind County**

Deleted

### **8. Changes in Work**

The State shall not commence any additional work or change the scope of the work until authorized in writing by the County. No claim for additional compensation shall be made in the absence of a prior written approval executed by all signatories hereto.

### **9. Compliance with Laws**

Deleted

### **11. Ownership of Documents and Materials**

Project deliverables described in Table 1, Paragraph II shall be in the public domain.

### **12. Confidentiality of State Information**

Deleted

### **13. Conflict of Interest**

Deleted

### **14. Continuity of Services**

Deleted

## **15. Debarment and Suspension**

Deleted

## **16. Default by State**

Deleted

## **17. Disputes**

- A.** Should any disputes arise with respect to this Contract, the County and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
  
- B.** The State agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. If the State and the County cannot resolve a dispute within ten (10) working days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the County and the State within ten (10) working days after presentation of such dispute for action. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

## **18. Drug-Free Workplace Certification**

Deleted

## **19. Employment Option**

Deleted

## **20. Force Majeure**

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a

“Force Majeure Event”), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

## **21. Funding Cancellation**

When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

## **22. Governing Laws**

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

## **23. Indemnification**

The County agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officials, and employees from all claims and suits including court costs, attorney’s fees, and other expenses caused by any act or omission of the State and/or its subcontractors, if any.

## **24. Independent Contractor**

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The County shall be responsible for providing all necessary unemployment and workers’ compensation insurance for the County’s employees.

## **25. Information Technology Accessibility**

Deleted

## **26. Insurance**

Deleted

## **27. Key Person(s)**

Deleted

## **28. Licensing Standards**

Deleted

## **29. Merger & Modification**

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.

## **30. Minority and Women Business Enterprise Compliance**

Deleted

## **31. Nondiscrimination**

Deleted

## **32. Notice to Parties**

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

**Roger Koelpin  
Indiana Information Technology Oversight Commission  
100 N Senate Ave. Rm. 551  
Indianapolis, Indiana 46204**

and

**Attn: 2005 Orthophotography Project  
INDIANA CRIMINAL JUSTICE INSTITUTE  
One North Capitol Avenue, Suite 1000,  
Indianapolis, Indiana 46204**

B. Notices to the County shall be sent to:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Payments to the State shall be sent to the following address:

**Attn: 2005 Orthophotography Project  
INDIANA CRIMINAL JUSTICE INSTITUTE  
One North Capitol Avenue, Suite 1000,  
Indianapolis, Indiana 46204**

**33. Order of Precedence**

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) This Contract, (2) attachments prepared by the State, and (3) attachments prepared by the County.

**34. Payments**

Exact dates for acquisition and product delivery are still being developed as part of the RFP process for RFP 4-93. The dollar amounts shown in Paragraph 2 are at this time the maximum amounts possible. Final County buy-up costs will be based vendor Best and Final Offers, and will not exceed the amounts shown in Paragraph 2. Final County buy-up costs will not be known until contract negotiations are completed.

Seventy-five percent (75%) of the final County buy-up costs for will be due to the State within thirty days after completion of image acquisition.

The remainder of the final County buy-up costs will be due to the State within thirty days after delivery of products shown in Table 1, Paragraph 2, to the County.

**35. Penalties/Interest/Attorney's Fees**

The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

### **36. Progress Reports**

Progress reports will be posted on an internet-site accessible to the County. The location of the internet-site will be communicated by the State to the County after completion of contract negotiations with the vendor of imagery acquisition.

### **37. Renewal Option**

Deleted

### **38. Security and Privacy of Health Information**

Deleted

### **39. Severability**

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

### **40. Substantial Performance**

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

### **41. Taxes**

The State of Indiana is exempt from state, federal, and local taxes. The State will not be responsible for any taxes levied on the County as a result of this Contract.

### **42. Termination for Convenience**

This Contract may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in its best interest. Termination of services shall be effected by delivery to the County of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective.

### **43. Termination for Default**

- A. With the provision of thirty (30) days notice to the County, the State may terminate this Contract in whole or in part, if the County **fails to**:
1. Correct or cure any breach of this Contract;
  2. Perform any of the other provisions of this Contract.

B. The County shall pay the contract price for supplies delivered and services provided. The County and the State shall agree on the amount of payment for manufacturing materials delivered and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause.

C. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

**44. Travel**

Deleted

**45. Waiver of Rights**

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver or excuse is in writing and signed by the party claimed to have waived such right.

**46. Work Standards**

Deleted

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**Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that he/she is the County, or that he/she is the properly authorized representative, agent, member or officer of the County, that he/she has not, nor has any other member, employee, representative, agent or officer of the County, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

**In Witness Whereof**, County and the State of Indiana have, through duly authorized representatives, entered into this Contract. The parties having read and understand the foregoing terms of this Contract do by their respective signatures dated below hereby agree to the terms thereof.

**County:**

(Where Applicable)

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attested By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**State of Indiana Agency:**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Department of Administration**

\_\_\_\_\_  
Charles R. Martindale  
Commissioner  
Date: \_\_\_\_\_

**State Budget Agency**

\_\_\_\_\_  
Marilyn F. Schultz  
Director  
Date: \_\_\_\_\_

**APPROVED as to Form and Legality:  
Office of the Attorney General**

\_\_\_\_\_  
Stephen Carter  
Attorney General  
Date: \_\_\_\_\_